



Appeal Decision

Site visit made on 16 September 2022

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2022

Appeal Ref: APP/E5900/W/22/3292534

18 New Road, London E1 2AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Miran Huq against the decision of London Borough of Tower Hamlets.
 - The application Ref PA/21/01186, dated 19 May 2021, was refused by notice dated 19 October 2021.
 - The development proposed is described as conversion of existing first and second floors from offices (use class E(g)(i)) into residential (use class C3) (already consented under NOPA application PA/20/02429) construction of three-storey rear extension and a mansard roof which will enable enlargement of the rear studio flats approved under application PA/20/02429 into 1-bed, 1-person flats and also enable the creation of an additional 1-bedroom 1-person flat at mansard level.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are 1) whether or not the proposed development would preserve or enhance the character and appearance of the Myrdle Street Conservation Area (MSCA) and the setting of listed buildings, 2) the effect of the proposed development on the living conditions of occupants of surrounding residential properties, 3) whether or not, having regard to development plan policy, the proposed development would result in a harmful loss of employment space, and 4) whether or not the proposed development would make satisfactory provision for refuse storage and cycle storage.

Reasons

Character and appearance of the MSCA

3. The appeal property is a three storey mid-terraced property with basement. It comprises a commercial unit on the ground floor and office use on the upper floors. The building is locally listed and is located within the Myrdle Street Conservation Area (MSCA) which is characterised by its high density of Georgian streets, including 19th century terraces such as New Road, which takes a central position in the conservation area. The appeal property sits adjacent to 10-16 New Road which form part of the terrace, where together with the attached railings, are grade II listed buildings.
4. The appeal property has pleasant contrasting brick banding detail on the first and second floor frontage and a decorative Dutch style parapet with

intersecting railing at roof level. These features positively contribute to the appearance of the property and its contribution to the MSCA.

5. There is an existing mansard roof to the listed Somerset House (no. 12 New Road) with the rest of the terrace either having unaltered or less apparent roof alterations. The MSCA Character Appraisal identifies that despite the existence of one or two inappropriate developments and empty sites, the area retains a cohesive character with much of the historic urban fabric remaining. This includes a consistent parapet line with no mansards.
6. The proposed mansard roof, due to its overall size and siting, would appear as a prominent addition to the roofscape which, aside from the mansard at no. 12, is largely unaltered. It would appear incongruous and bulky and diminish the positive contribution of the decorative and distinctive parapet of the appeal property.
7. I acknowledge that there are other roof extensions and alterations in the wider area. Although I do not have full details, some of these serve to demonstrate the harm that can be caused through inappropriate additions. They do not justify allowing further harm to be caused. I also acknowledge that the adjacent property (no. 20 New Road) was granted planning permission for a mansard roof. It was, however, approved in 2012, prior to the current Local Plan and National Planning Policy Framework, and has not been implemented. It is therefore of limited weight.
8. The proposed development also includes the construction of a three-storey rear extension. The appeal property, although sitting flush with the rear elevation of no. 20 projects notably deeper than no. 16. The Council state this is by approximately 2.5m. The proposed extension would add a further 3.2m projection and have the effect of creating a 5.7m projection from the rear when viewed in conjunction with the rear of no. 16.
9. The rear of the appeal property and the rest of the terrace is visible from Varden Street and Nelson Street, with the latter demonstrating the existing projection. Due to no. 20 adopting the same building line as the appeal property, this is not as apparent when viewed from Varden Street. There is also a substantial tree to the rear of the terrace that screens much of the rear elevation of the terrace when viewed from Nelson Street, although this would only provide significant screening when in leaf.
10. The proposed extension would nevertheless represent a significant incursion into the area to the rear of the terrace, where due to its overall size, scale and siting would appear highly prominent and discordant with the rest of the terrace. It would result in a large, exposed expanse of brickwork further protruding from the terrace, that would be disruptive to its established form. I acknowledge that there are some rear extensions to the existing terrace, however, unlike the appeal proposal, these are less prominent and more modest in view of the existing arrangement at the rear.
11. Again, I acknowledge that the adjacent property at no.20 was granted planning permission for a rear extension. Although it was approved in 2012, the appellant outlines that it is in the process of being constructed. If indeed the scheme is implemented, it would no doubt reduce the impact in terms of the Varden Street side, however this would not be replicated from the Nelson Street view. It is also, in any event, clearly for a different form of development,

being one which was designed to form part of the Varden Street context, as opposed to the rear of the terrace. It would not mitigate the whole adverse impact of the proposed development.

12. Therefore, for the reasons given above, the proposed development would not preserve or enhance the character and appearance of the MSCA. It would cause harm to the setting of the adjacent listed buildings which are seen in conjunction with the terrace as a whole. It would also harm the significance of this locally listed building. The proposed development would therefore be contrary to Policies S.DH1 and S.DH3 of the Tower Hamlets Local Plan (2020) and Policy HC1 of The London Plan (2021). These policies require, amongst other things, that developments affecting heritage assets, and their settings, should conserve their significance.
13. The development would also be contrary to the National Planning Policy Framework (2021) (the Framework) which requires, amongst other things, the conservation of heritage assets in a manner appropriate to their significance, and that when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Living conditions

14. The evidence shows that there are residential properties to the side of the appeal property. The closest at no.16 looks onto the existing exposed side elevation of the appeal property that projects further than no.16. When extended over three storeys and at roof level, the appeal property would have a significantly greater impact on the outlook from no.16, and to a lesser extent on no. 14. The impact would be most harmful when the extended sections of the appeal property are experienced from the first-floor windows, where due to the height of the extension and its projection, it would appear imposing and overbearing.
15. The Council acknowledge that due to the orientation of surrounding properties there would not be an unreasonable loss of sunlight to those properties to the south of the proposed development. The extension also has a staggered design so that the impact on no.20, to the north, would not be unacceptable.
16. The Council consider that the proposed development would have a significant impact on daylight to surrounding properties, and refer to the absence of a daylight assessment in the application.
17. Although I acknowledge that sunlight and daylight are two separate considerations, the finding of acceptable levels of sunlight would ensure that levels of daylight also remain acceptable. For no. 20, which lies to the north of the proposed extension, the proximity would likely result in a minor reduction in levels of daylight and sunlight. However, given the staggered design, overall size and scale of the extension at this point, when combined with the position of windows in the rear elevation of no.20, the impact would not be unreasonable.
18. I therefore conclude that the proposed extension would cause significant harm to the living conditions of no. 16 with specific regard to outlook. It would therefore be contrary to Policy D.DH8 of the Tower Hamlets Local Plan (2020) and Policy D3 of The London Plan (2021). Collectively, these policies require

that development is required to protect the amenity of existing buildings and their occupants and deliver appropriate outlook.

Loss of employment floorspace

19. The proposed development would result in the loss of office floorspace. Part 2 of policy D.EMP3 of the Local Plan states that development should not result in the net loss of viable employment floorspace outside of the designated employment locations cited in Part 1 or Local Employment Locations (LELs), except where they: a. provide evidence of active marketing over a continuous period of at least 24 months at a reasonable market rent which accords with indicative figures or b. provide robust demonstration that the site is genuinely unsuitable for continued employment use due to its condition; reasonable options for restoring the site to employment use are unviable; and that benefits of alternative use would outweigh the benefits of employment use.
20. In the proposed development no evidence of marketing of the site has been submitted. There has not been a robust demonstration that the site is genuinely unsuitable for continued employment use, or that employment use is unviable. Therefore, due to the loss of employment floorspace without meeting the requirements outlined above, the proposed development would be contrary to the above policy of the Local Plan.
21. The appellant has drawn my attention to an extant prior approval¹ to convert the office floorspace of the appeal property to residential accommodation.
22. I am satisfied that if the appeal proposal was not implemented, there is every likelihood that such a fallback would be implemented and thus result in the same loss of employment floorspace. In this regard, the proposed development would have no greater impact than the fallback. I therefore regard the fallback as a material consideration of significant weight which would, in this case, justify making a decision which is not in accordance with the development plan.

Refuse and cycle storage

23. There are no dedicated external refuse storage facilities proposed. The appellant proposes refuse storage internally which will be taken out on collection days. The internal storage of refuse presents concerns due to the impact of odours on living conditions. Additionally, the requirement to put, presumably, bin bags out on collection days, also presents concerns in relation to the practicality and suitability of this approach, with possible deposition of waste from bags and the requirement for collection from the footpath. When multiplied to reflect the total number of units proposed, the arrangement is far from ideal.
24. The appellant has referred me to the Council's consideration of refuse storage in a listed building consent application² at another site where similar constraints were present. In the delegated report it is outlined that 'with regards to waste, an area within the kitchens has been identified to allow for a bin and storage at 70L refuse. Space is also allocated for recycling and food waste at sufficient capacity'. The appellant has also referred to the refuse storage arrangements being the same for the fallback scheme granted under the prior approval process.

¹ PA/20/02429

² PA/20/01068/NC

25. Policy D.TR3 of the Tower Hamlets Local Plan, and Policy T5 of The London Plan set out the requirement for cycle parking to be provided in developments. This is in the interests of promoting sustainable travel choices. No dedicated cycle storage is proposed for the dwellings.
26. Similar to the refuse storage, the appellant has outlined that the site constraints are such that it is not possible to provide dedicated cycle storage. The appellant outlines that the proposed solution would be to store lightweight folding cycles within the flats, and the appellant has again outlined that this approach was accepted by the Council in the afore mentioned listed building development. Again, the approach to cycle storage is far from ideal. The suggestion for the storage of lightweight folding cycles is arguably better than no facility, however there is no assurance that these will be made available or used by future occupants.
27. I acknowledge the constraints in providing appropriate refuse and cycle storage. Having regard to the Council's previous approach as put forward and the similarity with the proposed arrangements in the fallback, whilst not overriding the conflict with the development plan, significantly lessens the harm that would otherwise exist in not providing appropriate facilities.
28. There is nevertheless conflict with Policy D.MW3 of the Tower Hamlets Plan (2020) and also, due to the lack of appropriate cycle parking, the development would fail to promote sustainable travel and would be contrary to Policy D.TR3 of the Tower Hamlets Plan (2020) and Policy T5 of the London Plan (2021). This conflict would cause minor harm and weighs against the proposed development in the planning balance.

Other Matters

29. The Council have commented that the proposed development would be unacceptable due to the lack of a legal agreement to secure an affordable housing contribution.
30. The appellant has confirmed that they would be fully amenable to entering into a legal arrangement to secure a small sites affordable housing contribution. There is not, however, a completed legal agreement before me.
31. However, as I am dismissing the appeal for other reasons the presence of a completed agreement could not, in any event, lead to a different decision. There is therefore no need for me to reach a finding on this matter.
32. The appellant has referred to the benefit of the scheme insofar that it would provide larger units than those in the prior approval scheme. I accept that larger units that meet the minimum space standards, or at least closer to meeting them, would be significantly more appropriate. The appellant is however under no obligation to implement the unit size put forward either in the consented scheme or the appeal scheme, and I am therefore not convinced that the appeal scheme is the sole means of achieving this benefit. Either way, it does not outweigh the harm I have identified.

Planning Balance and Conclusion

33. The Government's objective as set out in the Framework is to support sustainable housing growth. The proposed development would result in a small increase in the Council's overall housing number and would be in a sustainable

location. It would also bring a number of additional residents to the area who would contribute to the local economy. Collectively, I give these matters moderate weight in favour of the proposed development.

34. Having regard to paragraph 202 of the Framework, I find that as the proposed development would affect a limited part of the conservation area, the harm to the MSCA is relatively localised, and therefore the proposed development would cause less than substantial harm to the significance of the designated heritage asset. Additionally, the harm to the setting of the listed buildings and the locally listed building would relate to a modest part of their significance and is also less than substantial. I do not, however, find that this harm is outweighed by the provision of the proposed residential properties in a highly accessible location or any other public benefits of the proposed development.
35. Furthermore, when combined with the harm that the proposed development would have on the living conditions of occupants of no 16 New Road, and the minor harm due to the less-than-ideal refuse and cycle storage, this attracts significant weight that outweighs the benefits associated with the proposed development.
36. The proposed development would therefore conflict with the development plan and there are no identified other considerations, including the Framework, that outweigh this conflict.
37. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR